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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/826,677 | 04/16/2004 | Robert E. Blake | 108-034USANB0 | 9581 |

7590 04/20/2005
Thomas J. Perkowski, Esq., P.C.
Soundview Plaza
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| EXAMINER |
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KIM, AHSHIK

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| ART UNIT | PAPER NUMBER |
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2876

DATE MAILED: 04/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

11A

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|------------------------------|--------------------------------------|-------------------------------------|--|
| Office Action Summary | Application No. 10/826,677 | Applicant(s) BLAKE ET AL. | |
| | Examiner Ahshik Kim | Art Unit 2876 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8/31/04 (second prelim amendment).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Preliminary Amendment

1. Receipt is acknowledged of the first preliminary amendment filed on April 16, 2004 and
5 second preliminary amendments filed on August 31, 2004 respectively. In the second
preliminary amendment, claims 24-51 were canceled, and claims 1-3, 8-10, 15, 16, and 19 were
amended. Currently, claims 1-23 remain for examination.

Drawings

- 10 2. The drawings were received on April 16, 2004. These drawings are approved and
entered.

Specification

3. The lengthy specification and a large number of drawings have not been checked to the
15 extent necessary to determine the presence of all possible minor errors. Applicant's cooperation
is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the
20 basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on
sale in this country, more than one year prior to the date of application for patent in the United States.

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5. Claims 1-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Bridgelall et al. (US 5,988,508, hereinafter "Bridgelall").

Re claims 1, 2, 4-9, and 16-21, Bridgelall discloses an optical scanner producing raster scanning beams (col. 3, lines 5+; col. 5, lines 12+) comprising a housing (see figure 1A and 1B);
5 a light source disposed in the housing as embodied with a laser diode (col. 10, lines 53+), the light is suitable for scanning 2-D bar code (see the scanning pattern disclosed in figures 5A-5E; col. 5, lines 29+; col. 5, lines 53+), a first light beam scanning mechanism and a second light beam scanning mechanisms (see scan element A and B in figure 8; see figures 13A and 14). The first element and second element generate beams that are orthogonal to each other (col. 15, line
10 60 – col. 16, line 64). The first element controls the beam in x-axis and the second in y-axis (or the other way around depending on orientation). The scanner is further comprised of a light detecting and collecting means such as a photo-detector (col. 2, lines 43+; col. 9, lines 66+)

Re claim 3, as disclosed in figure 4A-4C, the scanning beams as a whole traverses back and forth (col. 13, lines 57+).

15 Re claims 5, 15, and 22, as shown in figure 1A, the scanner is a hand-held type. In another embodiment, it could be constructed as a palm-held version (col. 7, lines 64+).

Re claims 6 and 23, hand-held, in a reasonable interpretation, can be interpreted as a 'body-wearable'. Moreover, although not explicitly suggested, the gun-shaped scanner (col. 10, lines 5+; see figure 1A) can certainly be worn on a user's belt or in a holster (as a gun is placed
20 or as in a tool-belt worn by a construction worker).

Re claims 12-14, the drive for the x-axis and y-axis is further comprised of a spring/coil which would vibrate a desired frequencies (col. 20, lines 40+; col. 20, lines 64+). The bracket

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150 or the support member on which the coil 172 is rigidly secured to can be considered an optical bench (col. 20, lines 26; col. 20, lines 47+).

Conclusion

5 I. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Krichever et al. (US 5,591,952); Metlitsky et al. (US 5,545,886); Nakazawa (US 5,528,022); McQueen (US 6,621,063); Bard et al. (US 6,010,071); Swartz et al. (US 5,621,203) disclose raster scanners or body-wearable scanners. Applicant is respectfully suggested to carefully review these references.

10 II. Any inquiry concerning this communication or earlier communications from the examiner should be directed to *Ahshik Kim* whose telephone number is (571)272-2393. The examiner can normally be reached between the hours of 6:00AM to 3:00PM Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee, can be reached on (571)272-2398. The fax number directly to the Examiner is (571)273-2393. The fax phone number for this Group is (703)872-9306.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [ahshik.kim@uspto.gov].

20 *All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.*

25 Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0956.



Ahshik Kim
Patent Examiner
Art Unit 2876
April 15, 2005